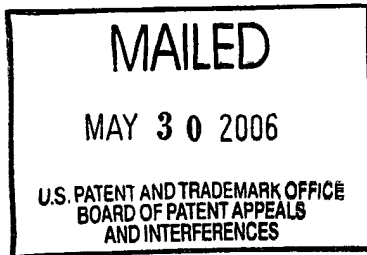


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT C. HARRIS

Application 10/065,120

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on May 16, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on November 23, 2005. In response, an Examiner's Answer was mailed on February 3, 2006.

Section 1207.02 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal" [page 2 under the caption "Evidence Relied Upon"], the claim rejections are listed as follows:

1. Claims 1, 2, 9-13, 15, 17-20 and 22-27 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Zellner et al (6,675,017) [page 2]; and

2. Claims 1, 2, 9-13, 15, 17-20 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson et al (5,731,785) in view of Seiple et al (6,222,484) [page 4].

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) to submit a revised Examiner's Answer which corrects the "Evidence Relied Upon" section; and

2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW

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DMS:psb

Application 10/065,120

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